

AMENDED IN SENATE MAY 26, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 399**

---

**Introduced by Assembly Member Brownley**

February 23, 2009

---

An act to amend ~~Section 20731~~ *Sections 20731 and 22864* of the Government Code, relating to public ~~employees' retirement~~ *employee benefits*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 399, as amended, Brownley. ~~Public Employees' Retirement System: accumulated contributions.~~ *Public employee benefits.*

The

(1) *The Public Employees' Retirement Law (PERL) permits a member of the Public Employees' Retirement System (PERS) with less than 3 years of service who enters employment as a member of another public retirement system supported, in whole or in part, by state funds, within 6 months of leaving state service to elect to leave accumulated contributions on deposit in the retirement fund. The law provides that failure to make an election to withdraw accumulated contributions shall be deemed an election to leave accumulated contributions on deposit in the retirement fund.*

This bill would require that a member who is permanently separated from all service covered by PERS, who is not in specified public service, and who attains the age of 70, be provided with an election to withdraw contributions or, if vested, an election to either apply for service retirement or withdraw contributions. The bill would require that failure to apply for service retirement or to make an election to withdraw contributions within 90 days be deemed an election to withdraw

contributions. The bill would specify the method of distribution of contributions for members who cannot be located with reasonable diligence. The bill *also* would ~~also~~ make technical changes.

(2) *The Public Employees' Medical and Hospital Care Act requires that premiums charged for enrollment in a health benefit program reasonably reflect the cost of the benefits, provided that this does not limit the Board of Administration of PERS from adjusting premiums charged under any health benefit plan or contract to reflect regional variations in providing services, which adjustments are at the sole discretion of the board.*

*This bill would authorize the board to use reserves generated by one or more self-funded health benefit plans to reduce the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board, as specified.*

(3) *This bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~<sup>2/3</sup>. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 20731 of the Government Code is  
2 amended to read:  
3 20731. (a) Notwithstanding any other provision of this part,  
4 a member who is credited with less than the years of service  
5 specified in Article 1 (commencing with Section 21060) of Chapter  
6 12 who enters employment as a member of a public retirement  
7 system supported, in whole or in part, by state funds, including  
8 the University of California Retirement System, or as a member  
9 of a county retirement system, within six months of leaving state  
10 service, shall have the right to elect to leave accumulated  
11 contributions on deposit in the retirement fund. Failure to make  
12 an election to withdraw accumulated contributions shall be deemed  
13 an election to leave accumulated contributions on deposit in the  
14 retirement fund. This section shall also apply to a member who is  
15 subject to Section 21076, except that no election to leave  
16 contributions on deposit is required for service that is subject to  
17 Section 21076.

1 (b) (1) An election to allow accumulated contributions to remain  
2 in the retirement fund may be revoked by the member at any time,  
3 except ~~and~~ any of the following:

4 (A) While the member is employed in state service in a position  
5 in which the member is not excluded from membership with respect  
6 to that service.

7 (B) While the member is in service as a member of a public  
8 retirement system supported, in whole or in part, by state funds,  
9 including the University of California Retirement System.

10 (C) While the member is in service, entered within six months  
11 after discontinuing state service, as a member of a county  
12 retirement system.

13 (2) All accumulated contributions in a member's account up to  
14 the time of revocation shall be distributed in accordance with an  
15 election pursuant to Section 20735.

16 (3) A member who is permanently separated from all service  
17 covered by the system, who is not subject to paragraph (1), and  
18 who attains 70 years of age shall be provided with an election to  
19 withdraw contributions or, if vested, an election to either apply  
20 for service retirement or to withdraw contributions. Failure to apply  
21 for service retirement or to make an election to withdraw  
22 contributions within 90 days shall be deemed an election to  
23 withdraw contributions. If the person fails to either apply for  
24 service retirement or elect to withdraw contributions, or cannot,  
25 with reasonable diligence, be located, the accumulated  
26 contributions shall be distributed in accordance with Section 21500.

27 (c) A member whose membership continues under this section  
28 is subject to the same age and disability requirements as apply to  
29 other members for service or for disability retirement. After the  
30 qualification of the member for retirement by reason of age, which  
31 shall be the lowest age applicable to any membership category in  
32 which the member has credited service, or disability, the member  
33 shall be entitled to receive a retirement allowance based upon the  
34 amount of the member's accumulated contributions and service  
35 standing to the member's credit at the time of retirement and on  
36 the employer contributions held for the member and calculated in  
37 the same manner as for other members, except that the provisions  
38 in this part for minimum service and disability retirement  
39 allowances shall not apply to the member, unless the member  
40 meets the minimum service requirements. If a basic death benefit

becomes payable under Article 1 (commencing with Section 21490), Article 2 (commencing with Section 21530), and Article 5 (commencing with Section 21620) of Chapter 14 because of death before retirement of a member, the average annual compensation earnable in the year preceding the date of termination of that service, rather than in the year preceding death, shall be used in computing the benefit under Articles 1, 2, and 5 of Chapter 14.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on that date.

*SEC. 2. Section 22864 of the Government Code is amended to read:*

22864. (a) Premiums charged for enrollment in a health benefit plan shall reasonably reflect the cost of the benefits provided.

(b) This part does not limit the board's authority to do any of the following:

(1) Enter into contracts with carriers providing compensation based on carrier performance.

(2) Credit premiums to an employer for expenditures that the board determines are likely to improve the health status of employees and annuitants or otherwise reduce health care costs.

(3) Adjust the premiums charged under any health benefit plan or contract to reflect regional variations in the cost of health care services and other relevant factors. Any adjustment of these premiums shall be at the sole discretion of the board and shall only apply to the premiums charged to employees and annuitants of contracting agencies. The board may require a contracting agency and its employees and annuitants to pay the premium rate established pursuant to this paragraph, which may be different than the health benefit plan or contract premium rate that would otherwise be applicable to that agency.

(4) *Use reserves generated by one or more self-funded benefit plans to reduce or otherwise pay the premiums charged for enrollment in one or more separate self-funded health benefit plans offered by the board. The board, in its sole discretion, shall determine whether a self-funded health benefit plan maintains sufficient reserves and amount of reserves to be used pursuant to this part.*

1     *SEC. 3. This act is an urgency statute necessary for the*  
2     *immediate preservation of the public peace, health, or safety within*  
3     *the meaning of Article IV of the Constitution and shall go into*  
4     *immediate effect. The facts constituting the necessity are:*

5     *In order to allow the Board of Administration of the Public*  
6     *Employees' Retirement System (PERS) to use reserve funds to*  
7     *reduce health benefit premiums, thereby leading to substantial*  
8     *state savings in the current severe fiscal crisis, and to avoid*  
9     *imposing unnecessary penalties on members of PERS who have*  
10    *permanently separated from public service, it is necessary that*  
11    *this bill take effect immediately.*